

Decision No. 89063

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

IN THE MATTER OF JOINT APPLICATION  
of INDUSTRIAL COMMUNICATIONS  
SYSTEMS, INC., a California  
corporation, MARTIN E. WILLSON  
(and JOAN B. WILLSON), doing  
business as VICTOR VALLEY RADIO  
TELEPHONE COMPANY, VICTOR RADIO  
TELEPHONE CORPORATION, a California  
corporation, JOHN K. PASSENEAU and  
FREDERICK DANIEL, individuals, for  
acquisition and control of VICTOR  
RADIO TELEPHONE CORPORATION by  
INDUSTRIAL COMMUNICATIONS SYSTEMS, INC.

Application No. 57811  
(Filed January 19, 1978)

O P I N I O N

By this application, John K. Passeneau and Frederick Daniel (herein Sellers), doing business as Victor Radio Telephone Corporation (herein Victor), seek authority pursuant to Section 851 of the Public Utilities Code to sell and transfer to Industrial Communications Systems (herein ICS), all of their rights, title, and interest to the issuance, sale, and transfer of 800 shares of Victor, authorized by Decision No. 87746, dated August 23, 1977. In addition, Martin E. Willson (and Joan B. Willson) (herein Willson), doing business as Victor Valley Radio Telephone Company (herein VVRT), seeks authority pursuant to Section 851 of the Public Utilities Code to sell and transfer to Victor, all his operating rights, including his certificate of public convenience and necessity, properties and equipment of VVRT, prior to the issuance and transfer of 800 common shares of Victor to ICS. ICS, in consideration for the foregoing, requests to pay the sum of \$12,000 (and accrued interest, if any) to Victor to be disbursed to Willson. The full agreement entered between the applicants is submitted as Exhibit B attached to the application.

The application was filed with the Public Utilities Commission on January 19, 1978. No protests have been received by the Commission. In addition, staff members of the Communications Division and the Finance Division have advised there is no reason that the application should not be accorded ex parte treatment as requested by the applicants.

In issuing our order herein, we place Victor Radio Telephone Corporation and its shareholders on notice that we do not regard the number of shares outstanding, the total par value of the shares nor the dividends paid as measuring the return the company should be allowed to earn on its investment in plant and that the authorization herein given is not to be construed as a finding of the value of its stock or properties nor as indicative of amounts to be included in proceedings for the determination of just and reasonable rates.

The action taken herein is not to be considered as indicative of the amounts to be included in future proceedings for the purpose of determining just and reasonable rates.

The authority herein granted is subject to the following provision of law:

"The Commission shall have no power to authorize the capitalization of the right to be a corporation, or the capitalization of any franchise or permit, or the right to own, operate, or enjoy any such franchise or permit, in excess of the amount (exclusive of any tax or annual charge) actually paid to the State or to a political subdivision thereof as the consideration for the grant of such franchise, permit, or right."

The Commission makes the following findings and conclusions:

Findings of Fact

1. By Decision No. 87746, dated August 23, 1977, Mr. Martin E. Willson, dba VVRT, was granted the right to sell, and Messrs. John Passeneau and Frederick Daniel, dba Victor, to receive Mr. Willson's certificate of public convenience and necessity.

John  
13  
7-11-78

2. By Decision No. 87746, Victor was granted the right to issue to Sellers 800 shares of its common stock having a par (stated) value of \$10 per share to purchase from Willson the equipment of the utility involved.

3. On November 23, 1977, prior to the issuance and sale by Victor of its 800 shares to Sellers and prior to the sale and transfer by Willson of the assets of VVRT to Victor, all of the applicants entered into a written agreement whereby:

- a. Sellers agreed to sell to ICS all of their right, title and interest to the issuance, sale and purchase of 800 common shares of Victor authorized by said Decision No. 87746.
- b. Willson agreed to sell and transfer to Victor all of the operating rights, properties and equipment of VVRT.
- c. ICS, to consummate the agreement, is to pay the sum of \$12,000 (and accrued interest, if any) to Victor, to be disbursed to Willson.

4. Both Sellers and Willson desire to sell all of their rights and interests in Victor and VVRT to ICS and withdraw from the public utility radiotelephone business.

5. ICS has long been engaged in the radiotelephone business and desires to acquire all rights, interests and title of Sellers in Victor Radio Telephone Corporation.

6. The transfer of the operating rights here involved would not be adverse to the public interest.

#### Conclusions of Law

1. Willson should be authorized to sell and transfer all his utility operating rights, properties, and equipment to Victor and ICS to purchase all shares of Victor authorized by Decision No. 87746.

2. Upon completion of the sale and transfer of the public utility radiotelephone operating rights, properties, and equipment to Victor, Willson and Sellers should be relieved of all public utility obligations coincident with the full assumption of such responsibilities of Victor by ICS.

3. The proposed payment of \$12,000 by ICS to Sellers is proper to procure or pay for the securities of Victor authorized by Decision No. 87746 and other utility properties of Willson and Sellers, which purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income.

O R D E R

IT IS ORDERED that:

1. Within one hundred and twenty days after the effective date of this order, Industrial Communications Systems, Inc., may acquire the 800 shares of common stock of Victor Radio Telephone Corporation in accordance with the agreement attached to the application as Exhibit B. Within thirty days after the actual transfer of the stock, Industrial Communications Systems, Inc., shall notify this Commission, in writing, of the date upon which the transfer was consummated.

2. On or before the actual transfer, Martin E. Willson will transfer his certificate of public convenience and necessity to operate as a telephone corporation and his operating equipment and properties to Victor Radio Telephone Corporation in accordance with the agreement attached to the application as Exhibit B. Within thirty days after the actual transfer, Victor Radio Telephone Corporation shall notify this Commission, in writing, of the date upon which the transfer was consummated.

3. On or before the actual transfer, Messrs. John K. Passeneau and Frederick Daniel will transfer to Industrial Communications Systems, Inc., all of their right, title and interest to the issuance, sale and purchase of 800 common shares of Victor authorized by Decision No. 87746. Within thirty days after the actual transfer, Messrs. John K. Passeneau and Frederick Daniel shall notify this Commission, in writing, of the date upon which the transfer was consummated.

4. Upon compliance with Ordering Paragraphs 1, 2, and 3, Martin E. Willson, John K. Passeneau, and Frederick Daniel are hereby relieved of their public utility responsibilities with respect to the property being transferred coincident with the full assumption of operating rights of Victor Radio Telephone Corporation by Industrial Communications Systems, Inc.

5. Within sixty days after the date of actual transfer, Industrial Communications Systems, Inc., shall, by advice letter filing, revise Victor Radio Telephone Corporation's tariff in accordance with the procedure prescribed in General Order 96-A to indicate the new corporate officers and all other changes affecting the present tariff on file as a result of the transfer authorized herein. No increases in the presently authorized filed rules and rates shall be made unless otherwise authorized by the Commission.

The effective date of this order shall be thirty days after the date hereof.

Dated at San Francisco, California, this 11th day of JULY, 1978.

Robert Botwinick  
President

Richard D. Howell  
Clair T. Dedrick  
Commissioners

Commissioner William Symons, Jr., being necessarily absent, did not participate in the disposition of this proceeding.

Commissioner Vernon L. Sturgeon, being necessarily absent, did not participate in the disposition of this proceeding.